



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office Fax: (503) 378-5518

Third Floor/Measure 37 Fax: (503) 378-5318

Web Address: <http://www.oregon.gov/LCD>



August 23, 2006

Edward Gormley, Mayor
City of McMinnville
230 NE Second Street
McMinnville, Oregon 97128

RE: Report regarding the appeal of McMinnville's periodic review Task 1 and Urban Growth Boundary expansion

Dear Mayor Gormley:

Our report regarding the appeal of the department's approval of Task 1 and the Urban Growth Boundary (UGB) expansion is enclosed. We are recommending that the Commission affirm the department's decision. We have not included all attachments because we believe the parties already have the information. If we are incorrect, please let me know and we will provide any missing documents.

The Commission will consider this matter at its September 12, 2006 meeting in Salem.

The city and the appellant have the right to file an exception to this report, pursuant to OAR 660-025-0160(4). Exceptions are due in the DLCD Salem office by September 5, 2006.

Please contact your regional representative, Jason Locke, at (503) 373-0050 x289 if you have questions.

This report was also sent by e-mail on August 23, 2006.

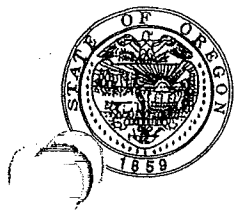
Yours truly,

Rob Hallyburton
Community Services Division Manager

Enclosure

cc: Doug Montgomery, Planning Director
Michael Brandt, Yamhill County Planning Director
Sid Friedman, 1000 Friends of Oregon
Mark Davis





Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office Fax: (503) 378-5518

Third Floor/Measure 37 Fax: (503) 378-5318

Web Address: <http://www.oregon.gov/LCD>

August 23, 2006

TO: Land Conservation and Development Commission

FROM: Lane Shetterly, Director
Jason Locke, Willamette Valley Regional Representative

SUBJECT: Agenda Item 2, September 12, 2006 LCDC Meeting



APPEAL OF THE DEPARTMENT'S APPROVAL OF THE CITY OF McMinnville's PERIODIC REVIEW TASK 1 AND UGB AMENDMENT

I. AGENDA ITEM SUMMARY

A. Type of Action and Commission Role

This item is before Land Conservation and Development Commission (the Commission) as an appeal of an approval by the Department of Land Conservation and Development (the department). The approval includes Task 1 on the city's periodic review work program: "Inventory of Commercial Lands." The second item is an Urban Growth Boundary (UGB) amendment greater than 50 acres for a city with a population greater than 2,500, which is reviewed as a periodic review work task. The entire submittal is in response to a Commission remand.

B. Staff Contact Information

If you have questions about this agenda item, please contact Jason Locke, Willamette Valley Regional Representative at (503) 373-0050, extension 289 or jason.locke@state.or.us.

II. SUMMARY OF RECOMMENDED ACTION

The department recommends that the Commission uphold the department's approval of the city's submittal completing Task 1 and a UGB amendment.

III. BACKGROUND

A. History of Action

This is the second time that this matter has been before the Commission. Task 1, Inventory of Commercial Lands, is part of a periodic review work program approved by the department on August 26, 1994. The city submitted its original Task 1 product to the department on October 17, 2003. The matter came before the Commission on April 22 and September 10, 2004, as a referral of the completed task and UGB amendment. The Commission issued a partial approval and remand order on December 3, 2004 (Order 04-WKTASK-001646).

The Commission approved the following items in Order 04-WKTASK-001646:

- Population Forecast: 44,055 in 2023
- Persons per household : 2.54
- Residential Lands Needs Analysis, including the buildable lands inventory, R-2 zoning, and government assisted and farmworker housing, but not including park needs.
- UGB expansion for the following exception areas: Riverside South, Fox Ridge Road, and Redmond Hill.
- The following rezonings in the McMinnville Growth Management and Urbanization Plan (MGMUP): parcel ID nos. 7, 9, 10, 15, 16, 19, and 20.

Subsequent to the Commission order, the following three actions related to this submittal have been adopted by the city:

- Task 1 partial submittal regarding parcels 4, 5, and 6 (the "Brickyard properties") and amendment of a typographical error found in section (f)(13) of city Ordinance 4769 (approved by DLCD Order 001661).
- Three Mile Lane UGB expansion via post-acknowledgment plan amendment (DLCD file no. 001-04) – 35 acres for parking/additional buildings at airport museum site (no DLCD action).
- 42-acre UGB expansion for school district property (approved by DLCD Order 001681).

B. Summary of New Submittals (City of McMinnville Ordinances 4840 and 4841)

The city submitted Ordinance 4840 to the department on January 17, 2006, and Ordinance 4841 on January 31, 2006. The first submittal contained amendments that did not require concurrence from Yamhill County, while the second included the county's approval. For the purpose of department review, the submittal was deemed complete pursuant to OAR 660-025-0130(2) upon the receipt of Ordinance 4841 on January 31, 2006. The submittal concerns McMinnville Periodic Review Task 1 and the accompanying UGB amendment and MGMUP. The amendments listed below are in response to LCDC and DLCD staff comments and concerns prior to and during the 2004 Commission proceedings.

1. ***Transit corridor enhancement policy:*** The city has expanded the transit corridor width to one-half mile, as recommended by the department. In addition, the city has identified three additional properties that may be redeveloped to higher densities.
2. ***Residential density within Neighborhood Activity Centers (NACs):*** The city has amended the density requirements in each of the four NACs to state, "Residential density of this neighborhood is a *minimum of 7.5 dwelling units per acre*" (italics added). This replaces the previous language that stated 7.5 units per acre was a "target" density.
3. ***Residential density definitions:*** The city made changes to the definitions of high- and medium-density that are implemented through the McMinnville zoning ordinance. The changes remove specific housing types from the definitions in the medium-density zone, but retain locational and transportation criteria.
4. ***Amendment of NAC illustrative plans:*** The city removed the illustrative NAC plans in order to remove internal inconsistencies related to density and the arrangement of land uses.
5. ***Rezoning of certain properties:*** The city reversed the remaining rezonings contained in MGMUP Table 73 and zoned parcels 1-3, 8, 11-14, 17, and 18 with their original designations (Ordinance 4840, pp. 5-6).
6. ***Accessory Dwelling Units (ADUs) and residential density:*** It was not clear from previous submittals that ADUs were allowed in all residential zones and did not affect density requirements. The submittal clarifies that ADUs are permitted in all four residential zones, and, in addition, density requirements do not apply to ADUs.
7. ***Amendments to the C-1 zone:*** The city deleted the 30-foot front-yard setback requirement and lot coverage requirements as suggested by DLCD.
8. ***R-4 and R-5 zone design standards:*** The zoning for the R-4 and R-5 zones contained standards that were not clear and objective, specifically related to façade design and buffering. The city removed those standards.
9. ***West McMinnville residential density policy:*** The city clarified the policy limiting density to six units per acre on the west side, but excluded the transit corridors and areas within one-quarter mile of neighborhood and general commercial shopping areas.
10. ***Reduction of buildable lands needs for parks:*** The city proposed a policy that requires new community parks to be located outside the 100-year floodplain, and has not changed the number of acres for park needs.
11. ***Removal of floodplain lands from the 2004 UGB proposal:*** The city has removed the floodplain land in the Three Mile Lane, Norton Lane, and Grandhaven subareas from the UGB proposal.

12. *Removal of floor area ratio for commercial land need analysis:* The city has removed all references to floor area ratios from the commercial land need analysis.

The department approved the city's submittal on May 31, 2006 (Order 001696, Attachment B).

B. Major Legal and Policy Issues

1. Whether the city correctly estimated the need for land to be added to the UGB:
 - a. residential land;
 - b. commercial land; and
 - c. park land.
2. Whether the city correctly applied the priorities in Oregon Revised Statute (ORS) 197.298 for including land within the UGB:
 - a. the city did not include several exception areas, but instead included resource lands;
 - b. the city did not include some nearby lands with lower agricultural capability, but instead included lands with higher capability.
3. Whether the city's plan and implementing regulations, as amended, are internally consistent and in compliance with applicable requirements of the statewide planning goals:
 - a. Rezone R-1 to R-2 on non-slope-constrained land, rezoning land to R-3, R-4, R-5;
 - b. Rezone specific parcels in the transit corridor;
 - c. Rezone certain land to R-5;
 - d. Definitions of low-, medium-, and high-density residential are internally inconsistent, consistent with housing types and lot sizes, and consistent with housing needs analysis;
 - e. Revisions to 188.03 resolve inconsistencies within plan and result in inefficient use of land; and,
 - f. The city has implemented reasonable efficiency measures.

IV. REVIEW CRITERIA AND PROCEDURES

A. Decision-making Criteria

The criteria applicable to Task 1 include Goal 9 and OAR 660, Division 9. (This rule has been amended, but the amendments were not effective at the time McMinnville adopted Task 1 and are not applicable to this review. This review is based on the *former* Goal 9 rule.) The applicable sections of the administrative rule include:

OAR 660-009-0015, Economic Opportunities Analysis. This rule requires a review of economic trends, identify the types of sites needed for economic development, an inventory of vacant and underutilized lands, and an assessment of community economic development potential.

OAR 660-009-0020, Industrial and Commercial Development Policies. This rule requires a city to include policies in its comprehensive regarding community development objectives and a commitment to provide adequate sites and facilities for economic development.

OAR 660-009-0025, Designation of Lands for Industrial and Commercial Uses. This rule addresses accommodation of long- and short-term supply of economic development land service to those sites. It requires consideration of site suitability and the city's ability to serve the site over the planning period.

The criteria applicable to the amendment of a UGB are:

Statewide Planning Goal 14 "To provide for an orderly and efficient transition from rural to urban land use." This goal requires cities to have a UGB to separate urbanizable land from rural land. (The recent Goal 14 amendments did not become effective until after McMinnville's action and are not applicable to this review. This review is based on the former Goal 14.) Amendment of a UGB is based on consideration of the following seven factors:

1. Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;
2. Need for housing, employment opportunities, and livability;
3. Orderly and economic provision for public facilities and services;
4. Maximum efficiency of land uses within and on the fringe of the existing urban area;
5. Environmental, energy, economic and social consequences;
6. Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and,
7. Compatibility of the proposed urban uses with nearby agricultural activities.

Factors 1 and 2 are "need" factors, which are used to determine whether there is sufficient land in a UGB to provide a 20-year supply of land. The need for housing is further defined in Statewide Planning Goal 10, "Housing," OAR Chapter 660, Division 8, "Interpretation of Goal 10 Housing," and ORS 197.296 through 197.314 "Needed Housing In Urban Growth Areas." The need for employment opportunities is further defined in Statewide Planning Goal 9 "Economic Development" and OAR 660, Division 9, "Industrial and Commercial Development." The need for "livability" has not been clearly defined but would at least include the need for parks and open space.

Factors 3 through 7 above are the "locational" factors, and are used to determine which lands would best meet the identified needs and should be included in the UGB. These factors encompass a wide range of issues such as: which lands can be most efficiently provided with urban services; which lands are most suitable for urban uses due to topography and other development constraints; natural resources which should be protected; energy, economic and social impacts, both positive and negative; and protection of prime farmland.

Specific requirements for farmland protection are set forth in ORS 197.298. This statute establishes priorities for adding various types of land to a UGB. All lands of a higher priority must be brought into a UGB or shown to be unsuitable before lands of lower priority can be used. The priorities, in order, are:

1. Lands designated as an urban reserve;
2. "Nonresource" lands or "exception" lands which have rural residential or other development;
3. "Marginal lands" designated pursuant to ORS 197.247;
4. Lower quality farmlands; and
5. Higher quality farmlands.

To amend a UGB, a local government must follow the Goal 2 Exceptions process, as set forth in OAR 660-004-0010(1)(C)(b). This requirement sometimes leads to some confusion. To follow the exceptions process does not mean that a UGB amendment requires an exception to a statewide planning goal. (The recent Goal 14 amendments affected this requirement, but did not become effective until after McMinnville's action and are not applicable to this review. This review is based on the former Goal 14.) For example, bringing farmland into a UGB does not require an exception to Goal 3. Also, some of the standards to address for an exception may be seen as duplicative of the Goal 14 factors. The exceptions standards are:

1. Reasons justify why the state policy embodied in the applicable goals should not apply (this factor can be satisfied by compliance with the seven factors of Goal 14);
2. Areas which do not require a new exception cannot reasonably accommodate the use;
3. The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
4. The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

The first standard (reasons) requires nothing beyond the seven factors of Goal 14. The second (areas not requiring a new exception) has two interpretations although these are not mutually exclusive. A UGB amendment must be justified by showing that the need cannot be accommodated within the existing UGB (this is similar to Goal 14, Factors 1 and 2). In addition, this standard can be applied to the priorities in ORS 197.298 to argue that an exception area should not be brought into a UGB because it cannot reasonably accommodate the use. The third requires a comparison of lands outside the UGB to determine which are most suitable for urbanization, similar to the "location" Factors 3 through 7 of Goal 14. The last exception standard requires a finding that the uses inside and outside of the new UGB would be compatible; for farm uses, this standard encompasses Goal 14, Factor 7.

Other applicable statutes, goals and rules are addressed in response to the objections in Attachment A. The most prominent of these are Goal 10, Housing; and Goal 12, Transportation and their implementing rules.

B. Procedural Requirements

OAR 660-025-0150(4) addresses appeals of director decisions. It states:

Appeals of director decisions are subject to the requirements of this section.

- (a) A person who filed a valid objection may appeal a director's approval or partial

- approval of a work task to the commission.
- (b) The local government, a person who filed a valid objection, or other person who participated orally or in writing at the local level during the local process on the work task may appeal a director's remand or partial remand of a work task to the commission.
 - (c) Appeals of the director's decision must be filed with the department's Salem office within 21 days of the date the director's action was mailed;
 - (d) A person appealing the director's decision must:
 - (A) Show that the person participated at the local level orally or in writing during the local process;
 - (B) Clearly identify a deficiency in the work task sufficiently to identify the relevant section of the submitted task and the statute, goal, or administrative rule the local government is alleged to have violated; and
 - (C) Suggest a specific modification to the work task necessary to resolve the alleged deficiency.

The director's decision was appealed by 1000 Friends of Oregon. The organization filed a valid objection and submitted the appeal in a timely manner. The appeal satisfies the requirements in subsection (d).

OAR 660-025-0085(5) provides that oral argument to the Commission is limited to "the local government or governments whose decision is under review and parties who filed objections or an appeal." Consequently, the City of McMinnville and 1000 Friends of Oregon may present oral argument. The Commission hears appeals based on the written record unless the Commission requests new evidence or information at its discretion and allows the parties an opportunity to review and respond to the new evidence or information.

OAR 660-025-0085(5) also provides that the local government that submitted the task may provide general information on the task submittal and address those issues raised in the department review, objections and the appeal and persons who submitted objections or an appeal may address only those issues raised in objections or the appeal.

OAR 660-025-0160(6) provides that, in response to an appeal, the Commission shall issue an order that does *one or more* of the following:

- (a) Approves the work task;
- (b) Remands the work task to the local government, including a date for re-submittal;
- (c) Requires specific plan or land use regulation revisions to be completed by a specific date;
- (d) Amends the work program to add a task authorized under OAR 660-025-0170(1)(b); or
- (e) Modifies the schedule for the approved work program in order to accommodate additional work on a remanded work task.

C. The Written Record For This Proceeding

1. 1000 Friends appeal (Attachment A)
2. Department Approval Order 001696 (Attachment B)
3. 1000 Friends Objections (Attachment C)
4. City of McMinnville Ordinance Nos. 4840 and 4841 (Attachment D)
5. DLCD Advisory Letter dated 12/5/05 (Attachment E)
6. DLCD Advisory Letter dated 5/16/05 (Attachment F)
7. This report, any exceptions to this report, and any response to exceptions.

All of the items used for production of this commission staff report are available for review at Salem DLCD office. A list of contents of the record of this matter is included as Attachment G.

The MGMUP, MGMUP Findings document, and the city's Economic Opportunities Analysis can be viewed at the following web address:

<http://www.ci.mcminnville.or.us/city/departments/planning-department-documents-and-publications/> under "Growth Related Land Use Documents."

V. ANALYSIS

A. Summary of City's Response to Commission Remand

The Commission's decision concerning the original Task 1 and UGB amendment submittal included a list of matters that arose as objections that the department recommended the Commission uphold. These are each addressed below.

1. *Needs Analysis.* The Commission remanded the submittal for reconsideration of the land need for residential, commercial, and office uses and to address the following tasks:
 - a. Amend the population forecast, based on a constant population for the county unincorporated area, or provide substantial evidence to demonstrate that county unincorporated population can be expected to decline in the next twenty years. *The population forecast was approved by the Commission.*
 - b. Amend the Housing Needs Analysis to employ the year 2000 household size of 2.66 persons per household or justify why this factor should be reduced to 2.54. *The Housing Needs Analysis was approved by the Commission.*
 - c. Amend the Housing Needs Analysis to accommodate a portion of the housing need on redeveloped land in the R-2 zone, based on available information on development which has actually occurred. *The Housing Needs Analysis was approved by the Commission.*
 - d. Amend the Housing Needs Analysis to project the type and density of government assisted housing and farmworker housing that will be needed, including multifamily; reevaluate the planned ratio of single-family to multiple-family units; and ensure that sufficient land is planned in each residential zone to accommodate the need. *The Housing Needs Analysis was approved by the Commission.*

- e. Amend the Economic Opportunities Analysis and land need for commercial and office use to substantially increase the planned efficiency in the use of land and to plan for types of development that is pedestrian-friendly and transit oriented development.

Findings: With this submittal, the city has revised its Economic Opportunities Analysis (Ordinance 4840, Exhibit B, Attachment D) to demonstrate that the actual employee per acre ratios are substantially lower than previously indicated in the MGMUP. Actual ratios are 18.4 employees per net acre for commercial and 3.6 employees per net acre for industrial (Ordinance 4840, Exhibit B, p.1, Table 4). The city found that the use of the proposed employee per acre ratios will encourage future commercial and industrial development to occur at higher densities. Additionally, the city found that approximately 18 percent of future employment will be accommodated through existing expansions or redevelopment of existing sites (Ordinance 4840, Exhibit B, p. 5, Tables 6-2 and 6-3). Therefore, the overall need for vacant land has been reduced. As to pedestrian-friendly and transit-oriented development, the city provided for these through the establishment of the Neighborhood Activity Centers (NACs).

- f. Reduce the planned need for buildable land for community parks to account for information on the portion of these parks that has actually occurred within the 100-year floodplain, and the potential for sharing park facilities with the school district and Linfield College.

Findings: The city found that three community parks have lands within the 100-year floodplain, of which approximately 52 percent of the total land area is constrained by floodplain. Furthermore, the city found that it is fiscally unsound, environmentally irresponsible, and not in the best interests of its citizens to locate future community parks in the floodplain. Additionally, the city found that planned parks may not be located near floodplains due to the projected direction and location of future growth. The city adopted a new plan policy (Ordinance 4840, p. 4) that states future community and neighborhood parks shall be located above the boundary of the 100-year floodplain. The city also made findings related to the sharing of facilities with the school district and Linfield College, noting that the school district's needs differ from the city's park needs, and that the location of the Linfield College facilities are in an area of the city that is already served by other parks (Ordinance 4840, pp. 10-11).

- g. Delete the unbuildable floodplain portions of the Three Mile Lane and Norton Lane areas or justify the need for these lands or urban uses under Goal 14, Factors 1 and 2. *The city removed these areas (Ordinance 4841, p. 2).*

2. **UGB Location.** The Commission remand included elements relating to which lands are to be included in the UGB, including the following tasks:

- a. If the revised land needs analysis results in a decrease in the 20-year land need, remove a corresponding amount of land from the UGB, starting with resource land, according to the priorities in ORS 197.298. *The city determined that a revised land need analysis was not necessary, nor was there a decrease in the 20-year land need.*

- b. Using maps provided by the Natural Resource Conservation Service and the Oregon Department of Agriculture, identify areas with Class III and IV agricultural soils and either (1) include them in the UGB instead of areas with Class I and II soils, if any, or (2) explain why they should not be included based on the standards in ORS 197.298(3). Areas with Class III and IV soils east of the airport are excluded from this requirement.

Findings: Consistent with this recommendation, the city mapped areas surrounding the McMinnville urban area, extending outward a distance of one mile from its 1981 urban growth boundary, for the purpose of identifying the existence and location of soils rated by the Natural Resource Conservation Service as Class III or Class IV. (See response to Objection 12, Department Approval Order, Attachment B.)

3. Implementation. The Commission remanded the submittal for the city to address plan and related implementing regulations, including the rezonings in Table 73, to make them internally consistent, consistent with the findings used to justify the UGB amendment, and to comply with applicable goal requirements, including the following tasks:

- a. Develop a program that will achieve the 10 dwelling units per acre within transit corridors by identifying additional vacant, underdeveloped, and redevelopable parcels that may be suitable for medium- and high-density housing within this half-mile corridor.

Finding: The city addressed this issue in Ordinance 4840 (Attachment D, pp. 7-8) and has found that the 10 dwelling units per acre standard cannot be met. The city has identified, but not rezoned, parcels suitable for higher density housing (Ordinance 4840, p. 3, Table 9). The city proposes to consider these rezonings as part of their Transportation System Plan process.

- b. Rezone those parcels identified as suitable for medium- and high-density housing in order to implement the plan.

Finding: The city has identified, but not rezoned, parcels suitable for higher density housing (Ordinance 4840, p. 3, Table 9). The city proposes to consider these rezonings as part of their Transportation System Plan.

- c. Amend the NAC policies to clarify the target of 7.5 dwelling units per net acre is a minimum but that higher overall densities will be allowed. *This has been completed (Ordinance 4841, p. 4).*
- d. Revise the definitions of low-, medium-, and high-density residential development to ensure the comprehensive plan, policies, and implementing ordinances are internally consistent and consistent with regard to minimum lot sizes and the types of residential products found in the city. *This has been completed (Ordinance 4841, p. 4).*
- e. Amend the illustrative plans for the Northwest, Grandhaven, and Three Mile Lane NACs in order to make these illustrative plans internally consistent with the plan policies. *This has been completed by removing the illustrations (Ordinance 4841, p. 3).*

- f. Conduct an analysis to determine the traffic impacts of the rezonings in Table 73 and include findings to address OAR 660-012-0060 or complete such an analysis in a transportation systems plan.

Finding: The city elected to delete the rezonings referred to in this item and rezone to the original designations for parcels 1-3, 8, 11-14, 17, and 18 (Ordinance 4840, pp. 5-6). (The City rezoned the "Brickyard Properties", parcels 4-6, which was approved by DLCD Order 001661).

- g. Amend Ordinance 4796 to remedy a typographical error and to rezone and apply development restrictions to Parcel 13.

Finding: The city fixed the typographical error, and it has been approved by the department. As to Parcel 13, the city determined that the rezoning of this parcel will occur at a later time in conjunction with the Transportation System Plan.

- h. Amend all residential zones to clearly state the minimum lot size for a lot with an accessory dwelling unit (ADU). *This has been completed. The city permits ADUs in their residential zones while stating that they do not count toward the density requirement (Ordinance 4796).*
- i. Amend the C-1 zone to eliminate or substantially increase the 0.25 commercial floor-area ratio limitation. *The city eliminated this provision (Ordinance 4840, p. 5).*
- j. Amend the C-1 zone to substantially reduce or eliminate the required 30-foot front yard setback. *The city removed this provision (Ordinance 4840, p. 5).*
- k. Amend the R-5 zone to provide clear and objective standards for required design features on exterior elevations of buildings. *The city completed this provision (Ordinance 4840, p. 5).*
- m. Amend the R-4 zone to provide clear and objective standards for buffering multiple-family from adjacent single-family housing. *The city completed this provision (Ordinance 4840, p. 5).*
- n. Adopt a policy to (1) complete the "concept planning" process for Neighborhood Activity Centers over the 20-year planning period and (2) require the concept plans to demonstrate that the increased traffic resulting from the proposed uses can be accommodated. Amend the NAC Planned Development Ordinance to (1) delete the requirement in Section 5.C to apply the Planned Development process to zone changes and land divisions and (2) add a requirement to include a traffic analysis, which may be satisfied through the adoption of a TSP. *The city completed these (Ordinance 4841, p. 3).*
- o. Amend Policy 71.01 to indicate that densities higher than six units per acre are allowed within one-quarter mile of transit routes. *The city completed this amendment (Ordinance 4840, p. 3).*
- p. Amend the illustrative plans so that the NAC Support Areas consist of high- and medium-density designations. Alternately, amend Policy 188.00(4) to be consistent with the

illustrative plans. *The city removed the illustrations and revised the policy (Ordinance 4841, p. 3).*

- q. Amend Policy 188.03 to provide clear guidelines that do not limit high-density housing from being a maximum distance of one-eighth mile (660 feet) from the edge of a Focus Area.

Finding: The policy states that high-density housing should not radiate out further than one-eighth mile from the edge of a focus area. This does not preclude the location of high-density housing further than one-eighth mile from the edge of the focus area.

B. Appeal

The 1000 Friends appeal of the department approval order is essentially the same as the previously submitted objections (Attachment C). The department's responses to the objections have not changed. The following list provides the location of the department's response to the original objections from the approval order (Attachment B).

1000 Friends Appeal

**DLCD Approval Order 001696
May 31, 2006**

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 1. Failure to implement zone changes as basis of plan: | Addressed on pp. 8-9 |
| a. R-1 to R-2 | |
| b. R-1 to R-3, R-4, R-5 | |
| c. Rezone in transit corridor | |
| d. Rezone to R-5 | |
| 2. Definitions of low-, medium-, and high-density residential are internally inconsistent, inconsistent with housing types and lot sizes, and inconsistent with housing needs analysis. | Addressed on pp. 9-10 |
| 3. Amendments reduce land need, no corresponding reduction in UGB | Addressed on pp.10-11 |
| 4. Revisions to 188.03 fail to resolve inconsistencies within plan, result in inefficient use of land. | Addressed on p. 11 |
| 5. City rejected reasonable efficiency measures. | Addressed on pp. 11-12 |
| 6. Policy 188.05 allocates excessive land for commercial/office space in Neighborhood Activity Centers (NAC's) | Addressed on pp.12-13 |
| 7. The city over-allocated commercial and employment land citywide | Addressed on pp.13-14 |

1000 Friends Appeal

**DLCD Approval Order 001696
May 31, 2006**

8. The city included too much buildable land for parks and did not give adequate consideration of shared facilities Addressed on pp. 14-15
9. City underestimated development capacity of Riverside South, now within the UGB Addressed on p. 15
10. (skipped)
11. City failed to account for 2004 35-acre Evergreen Aviation Museum UGB expansion Addressed on pp. 15-16
12. UGB includes prime farmland instead of exception lands, city has not analyzed compatibility of proposed uses with farm and forest uses Addressed on pp. 16-26

VI. COMMISSION OPTIONS

The Commission has five options for a decision on an appeal of a periodic review work task:

- approve the work task;
- partially approve the work task and remand the remainder of the task;
- remand the work task;
- Amend the work program to add a task authorized under OAR 660-025-0170(1)(b); or
- approve the work task with specific amendments required.

VII. DEPARTMENT RECOMMENDATION AND DRAFT MOTIONS

A. Recommendation

The department recommends the Commission uphold Order 001696 and approve the submittal.

B. Proposed Motions

Recommended Motion:

I move that the Commission approve Task 1 and the UGB amendment submittal, based on the city's findings and oral argument and the department's order and oral and written staff reports.

Alternative Motion 1:

I move that the Commission approve Task 1 and the UGB amendment and add a work task to the city's work program that requires the city to implement the zone changes contained in the MGMUP as Task 3 of the city's Periodic Review Work Program, coordinated with the development of the Transportation System Plan developed as required by the existing Task 2.

Alternative Motion 2:

I move that the Commission approve the City of McMinnville's periodic review Task 1 and the UGB amendment with the following specific amendment(s) [list amendment(s)].

Alternative Motion 3:

I move that the Commission remand the City of McMinnville's periodic review Task 1 and the UGB amendment submittal to the city for reconsideration of: [e.g., the 20-year commercial land need; the location of the amended UGB; the consistency of policies and implementing regulations with goal compliance] based upon [findings].

ATTACHMENTS

- A. 1000 Friends appeal
- B. Department Approval Order 001696
- C. 1000 Friends Objections
- D. City of McMinnville Ordinance Nos. 4840 and 4841
- E. DLCD Advisory Letter dated 12/5/05
- F. DLCD Advisory Letter dated 5/16/05
- G. Statement of the record

I:\LCDC\Books 06\Sept. 12, 2006 mtg\Item 2, McMinnville T1 & UGB.doc